

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

OCT 20 2005

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACEK STACHURSKI and ALAN V. MCCREE

Application No. 09/668,396

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 8, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On February 23, 2004, appellants filed an examiner's answer. On page 4 of the answer, the examiner has listed as prior art U.S. Patent No. 6,377,916 to Honda. The correct Patent No. to Honda is U.S. Patent No. 4,850,022 filed July 18, 1989. This error is drawn from page 4 of the final rejection filed July 30, 2003 and has been transmitted in the examiner's answer. Appropriate correction is required.

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In addition, there is no indication in the examiner's answer that an appeal conference was held because the examiner's answer contains only the typed names of the conferees. No signature or initialing by all conferees is present such as for Examiner Smits. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) entry of the appropriate patent to Honda by providing a corrected examiner's answer; 2) proper indication on the examiner's answer that an appeal conference was held; and 3) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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